

The problems of legal and ethical
regulation: a case study of
plagiarism lawsuit

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Content:

- Legal and ethical perspective on academic plagiarism
- Role of socio-cultural environment
- The analysis of the lawsuit: timeline, parties, accusations and decision
- Final conclusions

Academic plagiarism

- It is viewed as a shortcoming or form of academic misbehavior which threatens the high quality standards of research and higher education
- The authors propose that it should be managed and prevented in self-regulating way, i.e. by more efficient use of ethics tools at academic institutions

Legal and ethical views towards plagiarism

- Facts of plagiarism are found and investigated accidentally
- Lessons given by these investigations are not sufficient to prevent from this wrongdoing on the macro- or mezo-levels of a science system
- Universities avoid taking decisions in case of plagiarism and tend to pass it to the court
- The courts tend to treat it in a narrower legal sense, as copyright infringement or decide that it is the right of academic institutions to judge upon it (Luke, Kearins, 2012; Sonfield, 2014)

Copyright and plagiarism

- Plagiarism comprises the whole creative process meanwhile copyright covers only the result of creative activity
- As academic plagiarism covers a much wider range of research activities than copyright, it can't be grasped or solved solely by legal measures and therefore it is often not a real legal issue (Stearns, 1992; Sonfield, 2014)

Role of socio-cultural environment

- The countries and academic institutions differ in their reactions and measures used to deal with plagiarism, i.e. they either
 - a) **tolerate it** (try to ignore or hide it, avoid to mention it or publicize the fact (especially if senior researchers and managers are involved), researchers fair to trigger a scandal or become whistleblowers), or
 - b) **demonstrate intolerance** by transparently and consistently fighting it as any other socially harmful behaviour.

The Plagiarism lawsuit

- It's part of bigger scandal that started in 2002 and is still not finished yet
- The case concentrates on legal process which lasted 2012-2013
- The description of the case is built on the court protocols and court hearings observations (the authors were going to court hearings themselves)

The Lawsuit in the timeline of the plagiarism scandal:

2002 doctoral thesis with plagiarized data defended



2002 the report on plagiarism submitted to the University



2003 internal investigation at the University



2003 legal investigation starts



2006 the Author and her spouse fired from the University

The Lawsuit in the timeline of the plagiarism scandal:

2008 legal investigation dismissed due to extinctive prescription



2010 procedure of doctoral degree revocation due academic dishonesty introduced



2012 the degree revoked

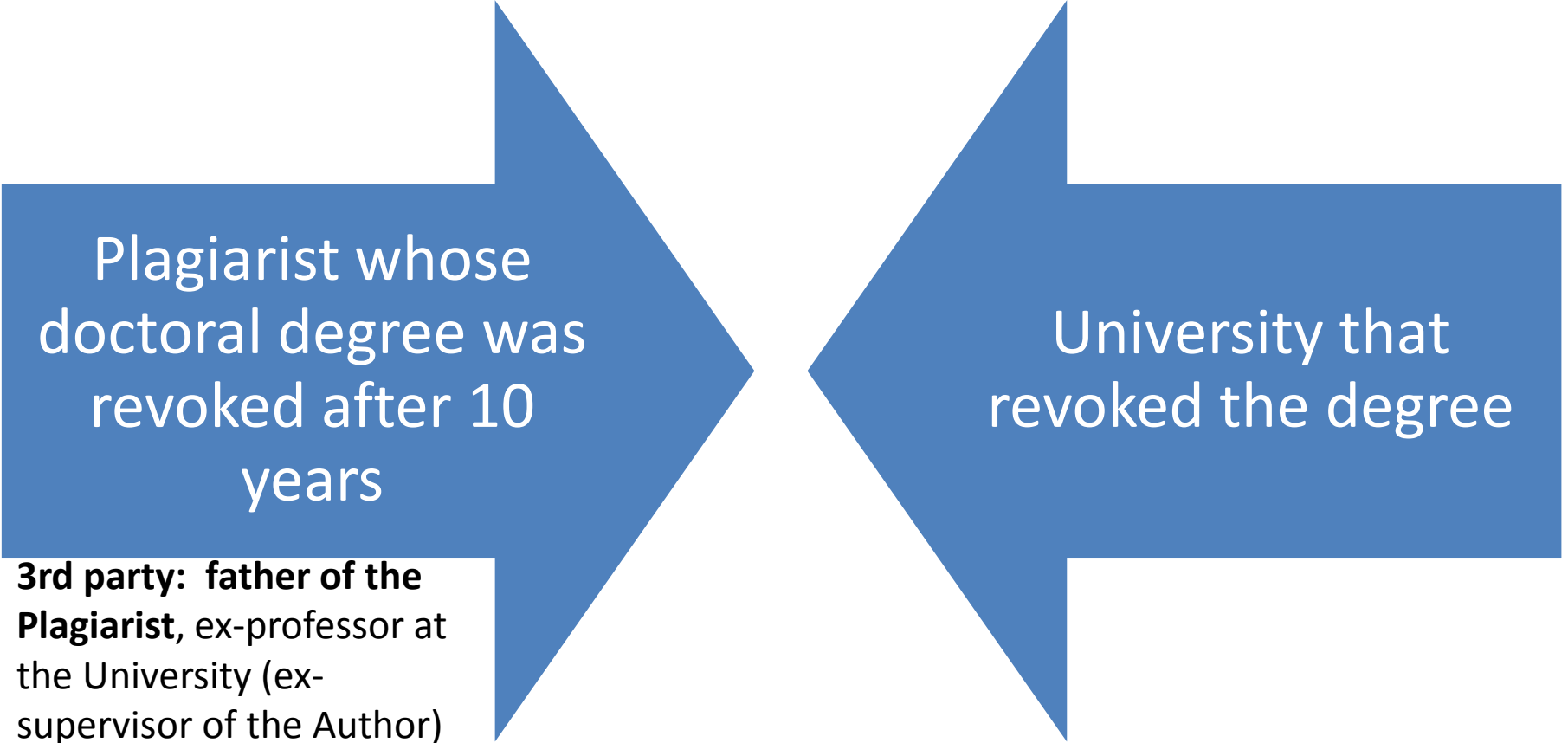


2012 the plagiarist sues the University



Legal process is continuing up today...

Situation of the parties in the court:



Plagiarist whose
doctoral degree was
revoked after 10
years

**3rd party: father of the
Plagiarist**, ex-professor at
the University (ex-
supervisor of the Author)

University that
revoked the degree

3rd party: the Author whose
work was plagiarized

Major accusations against the doctoral degree revocation

1. previous legal investigation and court decisions did not find the copyright infringements in the dissertation thus the University had no right, necessity or legal basis to restart the examination with respect to plagiarism in the dissertation;
2. the procedure of revocation proceeded by the University was created and applied incompatibly with the legal acts and regulated procedures;
3. the revocation of the degree is a result of personal conflict between the author and the plagiarist's father, and the plagiarist himself is the 'demonstrative victim' of this conflict.

Court decision

- “The complainant [i.e. plagiarist] used the scientific results (data) and findings of other researchers that was visualized in 58 graphs (pictures) out of 119, without giving reference neither to the dissertations or publications of the authors, nor to the data basis personally accessed [from the father’s collection of his students works].”
- All the claims of the Plagiarist against the University were rejected.

3 different perspectives represented by the parties towards research ethics:

- 1) the apathetic attitude (the University),
- 2) the nihilistic attitude (the Plagiarist),
- 3) the concerned attitude (the Author).

Conclusions:...

- The case represents the specific legal culture where the nihilistic or cynical approach towards ethical principles and moral values is ingrained.
- Overt attempts to justify plagiarism, ignorance of honour imperatives and objective criteria of plagiarism, so that the interested groups could construe them according their subjective comprehension.

...The gap between the legal and ethical regulation in academic activities

- The case is an example of the viewpoint eliminating ethics from the legal judgment ('plagiarism is to be judged only by legal, not ethical categories').
- There are a lot of instances of research misconduct that law does not consider as a breach, and academic institutions also do not have regulations how to deal with it.
- There is a certain gap between the legal and ethical regulation of research which is left on behalf of the assumed researchers' consciousness.

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